

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7202 of 2020**

- Vikul Singh @ Sonu son of Dhansay @ Dhanuram, aged about 22 years, R/o Village-Sonpur, Police Chowki Basdei, Police Station-Surajpur, District Surajpur C.G.

-----Applicant**Versus**

- State of Chhattisgarh Through Police Chowki-Basdei, Police Station-Surajpur District Surajpur, Chhattisgarh

---- Non-applicant

For Applicant	:	Mr. Pawan Kumar Kashyap, Advocate on behalf of Mr. Pushpendra Kumar Patel, Advocate
For Non-applicant	:	Mr. Siddharth Dubey, Dy.Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**ORDER****16/12/2020**

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No.248/2020 registered at Police chowki-Basdei, Police Station-Surajpur, District Surajpur (C.G.) for the offence punishable under Sections 302, 294, 323, 34 of IPC.
2. Case of the prosecution is that on 23.06.2020 at about 11:00 pm when Baudharam, Bhuvneshwar and Harihar were in their house, at that relevant time, one Tameshwar Singh entered into the house and started complaining as to why he locked up their room, upon which Baudharam denied and stated that room of Tameshwar was locked

up by his father. Thereafter, Tameshwar raising his grievance with regard to giving some piece of agricultural land to Baljeet Singh, started abusing him and tried to assault him by means of club to which Baudharam saved himself. Looking to the intention of Tameshwar, Bhuvneshwar and Harihar who are grand sons of Baudharam snatched the club from Tameshwar upon which Tameshwar lifted Baudharam and slammed him on the ground. In the said act, Baudharam suffered head injury and started bleeding, thereafter Tameshwar pressed his chest by his legs and thereupon present applicant came into the scene to which the grandchildren of deceased Baudharam have asked him to intervene the incident but instead of intervening he shouted "*maaro*". After the incident, Baudharam was taken to the house of Baljeet Singh by Gharbaran on his motor cycle from where, on next day, Baljeet Singh along with injured Baudharam went to police station and thereafter to hospital. During the course of treatment, Baudharam died. As per the post-mortem report he died on account of head injury suffered by him. Based upon the aforesaid facts, crime was registered against Tameshwar and present applicant.

3. Mr. Pawan Kumar Kashyap, learned counsel for the applicant submits that the applicant has not committed any offence as alleged against him. He submits that as per the statement of eye-witnesses who were present at the spot ie. Bhuvneshwar and Harihar, it is the Tameshwar who assaulted the deceased and caused injuries and not the present applicant. Present applicant came on the spot after happening of the incident. He further submits that it is for the first

time, involvement of the applicant has been shown in the statement of Sarfaraj recorded under Section 161 of CrPC, who was not the eye-witness. The eye-witness who were present on the spot have not stated anything against the present applicant of assaulting the deceased. He further argued that the deceased was near relative of the applicant and there was no reason for him to cause any injury of the nature as alleged against him.

4. Opposing the submission made by learned counsel for the applicants, Mr. Siddharth Dubey, learned Deputy Government Advocate submits that as per the statement of eye-witness namely Bhuvneshwar and Harihar, presence of present applicant on the spot of incident has been specifically mentioned. He further referred to the statement of Sarfaraj to support his contention of involvement of applicant on spot.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration the statement recorded by the police under Section 161 of CrPC of two eye-witnesses by name Bhuvneshwar and Harihar and further taking into consideration the entirety of the facts and circumstances of the case as available in the case diary, without commenting on merits of the case, I am inclined to enlarge the applicant on Bail.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.10,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-

- a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge